THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.13181 OF 2007

Dated: 17-07-2007

Between :

K.V. Bhaskarudu .. Petitioner

And

1. The Principal Secretary, Revenue (E) Dept.,
Government of Andhra Pradesh, Secretariat,
Hyderabad., and 2 others .. Respondents

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ORDER :

The petitioner herein, being the successful bidder in the public auction conducted by Sri Veerajaneya Swamy Devasthanam, Gandikshetram, Chakarayapeta Mandal, Kadapa District on 21-6-2006, was granted the leasehold rights to collect human hair for a period of one year from 1-8-2007 to 31-7-2008. The same was approved by the 2nd respondent - Commissioner of Endowments by proceedings dated 31-7-2006 and it is not in dispute that the petitioner is being continued as a lessee.

While so, the petitioner made a representation dated 19-4-2007 requesting the 2nd respondent to extend the period of lease by one year with 2% increase over the current year's lease amount stating that he could not recover the lease amount for various reasons explained therein. It is stated that subsequently he expressed his willingness to increase the lease amount by 3%. Pursuant thereto, the 2nd respondent has called for the remarks from the 3rd respondent – Executive Officer. It appears that the 3rd respondent submitted his remarks vide letter dated 22-5-2007 in which the plea of the petitioner that he suffered losses was not disputed. It was also stated by the 3rd respondent that since the petitioner is willing to pay the lease amount with the increase of 3%, appropriate orders may be passed on the request of the petitioner for extension of lease period.

However, the 2nd respondent failed to pass any orders on the

representation of the petitioner and in the meanwhile the petitioner apprehends that the respondents may take steps for grant of fresh lease. Hence, this writ petition seeking a declaration that the inaction on the part of the respondents is arbitrary and illegal and for a consequential direction to extend the lease period in favour of the petitioner for one more year with an increase by 3% over the bid amount of the year 2007-2008.

The 3rd respondent filed a counter-affidavit stating that the public auction is proposed to be held on 11-7-2007 for grant of fresh lease for 1-8-2007 to 31-7-2008.

I have heard the learned Counsel for both the parties and perused the material on record.

It is to be noted that in exercise of the rule making power conferred under Section 153 (1) of the A.P. Charitable and Hindu Religious Institutions & Endowments Act (Act 30 of 1987), the State Government made A.P. Charitable and Hindu Religious Institutions & Endowments Immovable Properties and other rights (other than Agricultural lands) Lease and Licenses Rules, 2003 (for short, 'the Rules, 2003'). As per Rule 3 of the said Rues, 2003, all leases or licenses shall be made by way of pubic auction. However, the proviso to Rule 3 (1) empowers the Commissioner to permit the executive authority on a request made by him in writing, to grant the lease otherwise than by way of a public auction if he is satisfied that the interest of the institution will not suffer thereby. Rule 3 (1) may be extracted hereunder :

> *"3 (1) All leases or licenses shall be made by way of public auction;*
> *Provided that, the Commissioner may, on a request made in writing by the executive authority permit the lease of any property or right otherwise than by way of public auction, if he is satisfied, for reasons to be recorded in writing that the interest of the institution or endowments will not suffer thereby. He may grant permission to such executive authority to grant a lease otherwise than by way of public auction.*
> *(2) … … … .. …."*

In the case on hand, the material on record shows that the 3rd respondent – Executive Officer while submitting his remarks did not

dispute the grounds on which the petitioner requested for extension of lease period and as a matter of fact the tenor of the said letter dated 22-5-2007 shows that the 3rd respondent in a way recommended the extension sought by the petitioner. In the circumstances, it is for the 2nd respondent – Commissioner to take an appropriate decision with regard to the petitioner's request for extension of the lease period.

Since the 2nd respondent is empowered to permit grant of lease otherwise than by way of public auction in appropriate cases and for reasons to be recorded in writing, I am of the opinion that it is necessary for the 2nd respondent to dispose of the petitioner's representation in accordance with law before taking any further steps for grant of fresh lease for the year 2007-08.

The petitioner in his affidavit-in-Reply dated 12-7-2007 denied the plea of the respondent that the public auction was proposed for grant of fresh lease and stated that no such auction was held on 11-7-2007.

In the circumstances, I deem it appropriate to dispose of the Writ Petition with a direction to the 2nd respondent to dispose of the petitioner's representation for extension of the lease period in accordance with law as expeditiously as possible preferably within a period of one week from the date of receipt of this order. Till such time, no fresh lease shall be granted in favour of any third party for the year 2007-08. No costs.

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G. ROHINI, J.

Dt.17-7-2007
gbs
Note:- CC by tomorrow.